2192.

SUPREME COURT OF THE UNITED STATES.

No. 168.

JAMES D'ARCEY, PLAINTIFF IN ERROR,

vs.

KETCHUM, ROGERS AND BENNET.

IN ERROR TO THE CIRCUIT COURT U. S. FOR LOUISIANA.

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Gideon & Co., Printers.

United States circuit court, fifth circuit and district of Louisiana.

KETCHUM, Rogers & Bement,
vs.
JAMES DARCY. } No. 1659.

Pleas and proceedings before the honorable Theo. H. McCaleb, district judge, and one of the judges of the United States circuit court, fifth circuit, and district of Louisiana, at a circuit court of the United States, in and for the fifth circuit and district aforesaid, being the April term of the said court, begun and held at the city of New Orleans, in the district aforesaid, on the twenty-fourth day of April, being the fourth Monday of said month of April, in the year of our Lord one thousand eight hundred and forty-eight.

Be it remembered, that heretofore, to wit, on the fourth day of January, in the year of our lord one thousand eight hundred and forty-eight, came Ketchum, Rogers and Bement, by their proctors, Lockett and Goold, esqrs., into the clerk's office of the said court, and filed the following petition, which is in the words and figures following, to wit:

To the hon. the fifth circuit [court] of the United States, holding sessions in Louisiana.

The petition of Morris Ketchum, Thomas Rogers, and Edward Bement, co-partners, doing business under the firm of Ketchum, Rogers & Bement, humbly shows, that petitioners are citizens of the State of New York, and that James Darcy, who is a citizen of the State of Louisiana, is indebted unto petitioners in the sum of fourteen hundred and eighteen dollars and eighty-one cents, with interest and costs, for this:

That heretofore, to wit, on or about December, 1846, George H. Gossip and James Darcy, being jointly and severally indebted to petitioners in the aforesaid sum, petitioners recovered in the superior court of the State of New York a final judgment against said George H. Gossip and James Darcy for said sum of fourteen hundred and eighteen dollars and eighty-one cents, with costs; which said judgment was duly and legally obtained, and was and is valid and binding upon said debtors in the State of New York, where the same was rendered as aforesaid. That said Gossip and Company was a commercial firm composed of said G. H. Gossip and said James Darcy; and petitioners show, that in virtue of said judgment they are entitled to recover of said Darcy the whole sum herein claimed; that he refuses to pay the same although amicably requested to; all of which more fully appears by reference to the exemplified record of said judgment and proceedings, made part hereof.

Petitioners therefore pray said James Darcy be cited, and that after due proceedings he be condemned to pay petitioners fourteen hundred and eighteen dollars and eighty-one cents, $52 12 costs, interest at

the rate of seven per centum per annum, the legal interest of the State of New York, from February 1, 1840, till paid, and for general relief. And as in duty.

LOCKETT & GOOLD, *for pl'ffs.*

Document made part of the aforesaid petition.

The People of the State of New York, by the grace of God free and independent, to all to whom these presents shall come, greeting: Know ye, that we having inspected the files of the superior court of the city of New York, do find there remaining on file a certain judgment record, in the words and figures following, to wit:

[SEAL.]

Pleas in the court called the superior court of the city of New York, held at the City Hall in the city of New York, in and for the city and county of New York, before the justices of the same court, on the first Monday of February, in the year of our Lord one thousand eight hundred and forty.

CITY AND COUNTY OF NEW YORK, *ss.*

Morris Ketchum, Thomas Rogers, and Edward Bement, plaintiffs in this suit, and now and at the date of the bill of exchange, a copy of which is hereunto appended, co-partners in business, negotiating under the name, firm, and style of Ketchum, Rogers & Bement, by Hiram Ketchum, their attorney, come there into the superior court of the city of New York, and in and by this their declaration, filed in pursuance of the statute authorizing the commencement of certain actions in the said court by the filing and service of a declaration, &c., they complain of Aurungzebe H. Gossip, Joseph Calder, George H. Gossip, and James Darcy, defendants in this suit, in a plea of trespass on the case upon promises. For that whereas, heretofore, to wit, on the fourth day of February, in the year of our Lord one thousand eight hundred and thirty-nine, at New York, to wit, at the city and in the county of New York aforesaid, the said Aurungzebe H. Gossip and Joseph Calder were co-partners in business, negotiating under the names, firm, and style of "A. H. Gossip & Co." And also for that whereas, heretofore, to wit, on the same day and year last mentioned, at New Orleans, to wit, at the city and in the county of New York aforesaid, the said George H. Gossip and James Darcy were also co-partners in business, negotiating under the names, firm, and style of Gossip & Co. And also for that whereas, the said defendants, heretofore, to wit, on the first day of February, in the year one thousand eight hundred and forty, at New York, to wit, at the city and in the county of New York aforesaid, were indebted to the said plaintiffs in the sum of two thousand dollars, lawful money of the United States of America, for so much money before that time lent and advanced by the said plaintiffs to the said defendants, and at the special instance and request of the said defendants; and being so indebted the said defendants, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid,

undertook, and then and there faithfully promised the said plaintiffs, well and truly to pay unto the said plaintiffs the said sum of money last above mentioned, when the said defendants should be thereunto afterwards requested. And whereas, also, the said defendants, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, were indebted to the said plaintiffs in the further sum of two thousand dollars, like lawful money as aforesaid, for so much money before that time paid, laid out, and expended by the said plaintiffs to and for the use of the said defendants, and at the like special instance and request of the said defendants; and being so indebted the said defendants, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs, well and truly to pay unto the said plaintiffs the said sum of money last above mentioned when the said defendants should be thereunto afterwards requested. And whereas, also, the said defendants, afterwards, to wit, on the same day and year, last aforesaid, and at the place aforesaid, were indebted to the said plaintiffs in the further sum of two thousand dollars, like lawful money as aforesaid, for money before that time had and received by the said defendants to and for the use of the said plaintiffs; and being so indebted the said defendants, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs, well and truly to pay unto the said plaintiffs the said sum of money last above mentioned when the said defendants should be thereunto afterwards requested. And whereas, also, the said defendants, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, accounted together with the said plaintiffs of and concerning divers other sums of money before that time due and owing from the said defendants to the said plaintiffs, and then and there being in arrear and unpaid, and upon such accounting the said defendants then and there were found to be in arrear and indebted to the said plaintiffs in the further sum of two thousand dollars, like lawful money as aforesaid; and being so found in arrear and indebted to the said plaintiffs, the said defendants, in consideration thereof, afterwards, to wit, on the same day and year last aforesaid, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiffs, well and truly to pay unto the said plaintiffs the said sum of money last above mentioned when the said defendants should be thereunto afterwards requested. Nevertheless the said defendants (although often requested, &c.,) have not yet paid the said several sums of money above mentioned, or any or either of them, or any part thereof, to the said plaintiffs, but to pay the same, or any part thereof, to the said plaintiffs the said defendants have hitherto wholly refused, and still do refuse, to the damage of the said plaintiffs of two thousand dollars, and therefore the said plaintiffs bring suit, &c.

Appended to which declaration, and filed and served therewith, were a notice of a copy of a bill of exchange, with the acceptance and endorsement thereof, of which the following are copies respective.

Gentlemen: Take notice that a bill of exchange, with the acceptance and endorsement thereof, of which the following is a copy, will be given in evidence under the money counts in the within declaration, viz:

Copy.

$1461 $\frac{87}{100}$. NEW YORK, *4th Febr'y*, 1839.

Four months after date, pay to our own order fourteen hundred and sixty-one $\frac{87}{100}$ dollars, value received, and charge the same to account of

(Signed) "A. H. GOSSIP, & Co.
157 Water st., New York."

To Messrs. GOSSIP & Co.
St. Charles st., New Orleans. (Accepted.)

"Accepted:
"GOSSIP & Co."

Endorsed:
"A. H. GOSSIP & Co."
"J. STEWART, 5 *Platt st.*"

Yours, &c. HIRAM KETCHUM, *Plff's Att'y.*

Dated, New York, Feb'y 11, 1840.

To the defendants within named.

And the said plaintiffs, by their said attorney, suggest to the said court that the said declaration has not, nor has any notice of the rule to plead thereto, been served on the defendants Aurungzebe H. Gossip, Joseph Calder, and James Darcy, or either of them. And that the same could not be served on the said last named defendants by reason of their absence and the absence of each of them from the city and county of New York.

And the said George H. Gossip impleaded as aforesaid, defendant in this suit, by Edmunds & Buckham, his attorneys, comes and defends the wrong and injury, when, &c., and says, that he did not undertake and promise in manner and form as the said plaintiffs in this suit have above thereof declared against the said defendant, and of this he puts himself upon the country, and the said plaintiffs likewise, &c.

Please to take notice, that the said defendant, at the trial of the above cause, will insist upon, and give in evidence under the general issue above pleaded, that the said plaintiffs, at the time of the commencement of the action aforesaid against the said defendant were and still are indebted unto him in the sum of two thousand dollars, lawful money of the United States of America, for divers goods, wares, and merchandise before that time sold and delivered by the said defendant to the said plaintiffs, and at the special instance and request of the said plaintiffs. And in the further sum of two thousand dollars, of like lawful money, for the work and labor, care and diligence, of the said defendant by the said defendant and his servants before that time done, performed, and bestowed in and about the business of said plaintiffs, and for the

said plaintiffs, and at his like request. And in the further sum of two thousand dollars, of like lawful money, for money before that time lent and advanced by the said defendant to the said plaintiffs, and at the like request of the said plaintiffs, and for other money by the said defendant before that time paid, laid out, and expended for the said plaintiffs, and at the like request of the said plaintiffs; and for other money by the said plaintiffs before that time had and received to and for the use of the said defendant. And also that the said plaintiffs, before the commencement of this action, accounted together with the said defendant of and concerning the said demands of the said plaintiffs against the said defendant, and also of and concerning divers other sums of money and accounts between the said plaintiffs and the said defendant, and upon such accounting the said plaintiffs were found to be in arrear and indebted to the said defendant in the further sum of two thousand dollars, of like lawful money, which the said plaintiffs undertook, and then and there faithfully promised the said defendant, well and truly to pay unto the said defendant when the said plaintiffs should be thereunto afterwards requested.

Which said several sums of money, or so much thereof as will be sufficient for that purpose, the said defendant will set-off against the demand of the said plaintiffs to be proved at the trial, and have the balance certified in his favor.

Dated the twenty-fourth day of February, 1840.

Yours, &c.,

EDMUNDS & BUCKHAM,

Attorney for defendant, George H. Gossip.

To H. Ketchum esq, *Attorney for plaintiffs.*

Therefore, to try the issue so as above joined between the parties, at a court called as aforesaid, to be held at the City Hall aforesaid, in and for the city and county aforesaid, before the justices thereof aforesaid, on the first Monday of March next, let a jury thereupon come, each of whom, &c., by whom, &c., and who neither, &c., to recognise, &c., because as well, &c., and the same day is given to the parties aforesaid at the same place; at which day and place, at a court called as aforesaid, held before the justices thereof aforesaid, in and for the said city and county, come the said parties by their said respective attorneys, but the sheriff hath not sent the writ of the people to him in that behalf directed, nor hath he done any thing thereupon. Therefore the process thereof is continued between the parties aforesaid of the plea aforesaid in this same court, before the justices thereof, until the first Monday in December, which will be in the year eighteen hundred and forty-six.

At which day, at a court called as aforesaid, held at the City Hall aforesaid, in and for the city and county of New York, before the justices thereof aforesaid, come the said plaintiffs by their said attorney; but the said defendant, George H. Gossip, though solemnly called, comes not, but makes default. Therefore let the jurors of the jury impannelled and returned to

try the issue above joined be taken against him by his default; and the jurors of that jury being summoned, also come, and to speak the truth of the matters above contained, being chosen, tried, and sworn, say upon their oaths that the said George H. Gossip did undertake and promise in manner and form as the said plaintiffs have above thereof complained against him, and they assess the damages of the said plaintiffs, by reason of the non performance of the said several promises in the said declaration contained, to the sum of fourteen hundred and eighteen dollars and eighty-one cents, ($1418.81,) besides their costs and charges by them about their suit in that behalf expended, and for those costs and charges to six cents.

Therefore it is considered that the said plaintiffs do recover, against the said George H. Gossip and James Darcy, their damages aforesaid, by the jury aforesaid, in form aforesaid, and also the sum of fifty-two dollars and six cents, for their said costs and charges by the said court now here adjudged of increase to the said plaintiffs, and with their assent; which said damages, costs, and charges in the whole amount to fourteen hundred and seventy dollars and nine[ty]-three cents, ($1470.93;) and the said defendants in mercy, &c.

Judgment signed this 25th day of January, 1847.

THOS. J. OAKLEY.

Filed January 25, 1847. 10.25, A. M.

$1418	81
	06
52	06
$1470	93

All which we have caused by these presents to be exemplified, and the seal of the superior court of the city of New York to be hereunto affixed.

Witness Samuel Jones, esquire, chief justice of our said court, at the City Hall of the city of New York, this 27th day of January, A. D. 1847.

J. OAKLEY, *Clerk.*

By the honorable Samuel Jones, chief justice of the superior court of the city of New York, it is hereby certified, that Jesse Oakley, whose name is subscribed to the above exemplification, is clerk of the superior court of the city of New York, and that the attestation thereof is in due form.

Given under my hand at the City Hall of the city of New York, this 27th day of January, A. D. 1847.

S. JONES.

And afterwards, to wit, on the 7th day of January, 1848, the following citation was issued from the clerk's office.

The President of the United States of America, to the marshal of the district of Louisiana, or his lawful deputy, greeting:

KETCHUM, ROGERS & BEMENT
vs.
JAMES DARCY. } No. 1659.

You are commanded to summon James Darcy, citizen of the State of Louisiana, to comply with the demand of Ketchum, Rogers & Bement, citizens of the State of New York, contained in the petition of which a copy accompanies this citation, or to deliver his answer to the same in the office of the clerk of the circuit court of the United States, fifth judicial circuit and district of Louisiana, in the city of New Orleans, in ten days after the service hereof, or judgment will be rendered against him by default; which delay is increased one day for every ten miles the defendant's residence is distant from New Orleans, the place where the court is held. And that you make due return hereof on the first Monday of February, 1848.

Witness the honorable Roger B. Taney, chief justice of the supreme court of the United States of America, at the city of New Orleans, in the said district of Louisiana, this seventh day of [SEAL.] January, in the year of our Lord one thousand eight hundred and forty-eight, and of the independence of the United States of America the 72d year.

ED. RANDOLPH, *Clerk*.
By J. Q. A. HOIT, *Dep. Clerk*.

Marshal's return on the foregoing citation.

Received this seventh day of January, 1848, and on the same day served copies of the within citation, plaintiffs' petition, and documents annexed, on the within named James Darcy, in the manner following, to wit, personally, at New Orleans. Returned same day.

W. F. WAGNER, *U. S. Marshal*.

And afterwards, to wit, on the 13th of January, 1848, the following exceptions and answer were filed in the clerk's office:

KETCHUM, ROGERS & BEMENT
vs.
JAMES DARCY. }

Circuit court of the United States for the fifth judicial circuit, holding sessions in and for the district of Louisiana.

The defendant in the above suit, a citizen of the State of Louisiana, residing in New Orleans, now comes and excepts to plaintiffs' petition filed in said suit, that the same is not addressed to any court of the United States of America, and is therefore informal and should be dismissed.

2d. The defendant excepts that the judgment sued upon is not one upon which suit can be brought against the defendant in this court.

3d. The defendants except to said judgment that it does not follow the verdict; that the same is not signed, and is not final; and that the same, with the record of proceedings in the suit in which the same was rendered, are not properly certified, as required by law; and the said record is upon its face incomplete.

4th. The defendant pleads prescription.

If the above exceptions and plea are overruled, the defendant for answer says, that he does not owe the plaintiffs in manner and form as set forth by them; that he is no ways indebted to them; and prays that he may have judgment thereof in his favor, and that said plaintiffs be condemned to pay all costs.

DURELL & GREINER.
of Counsel.

And afterwards, to wit, on the 8th of May, 1848, the following entry was made of record:

KETCHUM, ROGERS & BEMENT,
vs. } 1659.
JAMES DARCY.

The exceptions filed this case came on this day to be tried pursuant to assignment, and was argued by counsel and submitted to the court, who took the same under advisement.

And afterwards, to wit, on the 17th of May, 1848, the following final judgment was rendered:

KETCHUM, ROGERS & BEMENT,
vs.
JAMES DARCY.

This cause having been argued and submitted to the court on the 8th instant, and the court having maturely considered the same under the law and the evidence, it is ordered, adjudged, and decreed, that there be final judgment rendered herein in favor of the plaintiffs Ketchum, Rogers, and Bement, and against the defendant, James Darcy, for the sum of fourteen hundred and eighteen dollars and eighty-one cents, with interest thereon at the rate of seven per centum per annum, from the 1st day of February, 1840, till paid, fifty-two $\frac{15}{100}$ dollars costs of suit in New York, and the costs of this suit to be taxed.

Judgment rendered May 17, 1848.

Signed June 17, 1848.

THEO. H. McCALEB, [SEAL.]
U. S. Judge.

And afterwards, to wit, on the 19th of May, 1848, the [following] motion for a new trial was entered on the minutes:

KETCHUM, ROGERS & BEMENT,
vs } 1659
JAMES DARCY.

On motion of Durell & Greiner, of counsel for defendant in the above

suit, it is ordered that plaintiffs show cause on Saturday, the 27th day of May, inst., at 10 o'clock, A. M., why a new trial should not be granted in said suit, on the ground that the judgment rendered in the said suit is contrary to law and evidence, insomuch as by said judgment an effect is given to the record of a judgment rendered, and proceedings had, in a court of the State of New York, superior to and wholly different from the effect which would be given to said judgment and proceedings so rendered and had in one of the courts of the State of NewYork in any court of the said State of New York.

And afterwards, to wit, on the 27th of May, 1848, the following entry was made of record:

KETCHUM, Rogers and Bement, vs. JAMES DARCY. } 1659.

The motion herein made by the defendant for a new trial in this case being returnable this day, by consent of counsel it is ordered, that the said motion be, and the same is hereby, continued until Saturday, the 3d June, A. D. 1848, at 9 o'clock, A. M.

And afterwards, to wit, on the 3d of June, 1848, the following entry was made of record:

KETCHUM, Rogers and Bement, vs. JAMES DARCY. } 1659.

The motion herein made by the defendant for a new trial in this case being returnable this day, appeared the respective parties, by their counsel, when the same was taken up and argued by counsel, and submitted to the court, who took said motion under advisement.

And afterwards, to wit, on the 15th of June, 1848, the following entry was made of record:

KETCHUM, Rogers and Bement, vs. JAMES DARCY. } 1659.

The court having maturely considered the motion herein made by the defendant for a new trial in this cause, and being fully advised in the premises, doth now order and adjudge, that the new trial therein applied for be, and the same is hereby, refused at said defendant's costs.

And afterwards, to wit, on the 22d of June, 1848, the following motion for a writ of error was entered on the minutes:

KETCHUM, Rogers and Bement, vs. JAMES DARCY. } 1659.

On motion of Durell and Greiner, attorneys of the defendant, and on suggestion to the court that a final judgment was rendered against him in this case, that he is dissatisfied with the said judgment, and is advis-

ed and believes that there are various errors in the proceedings of the case to his prejudice and injury, and such as can only be remedied by the Supreme Court of the United States; and on further suggestion to the court that the amount in controversy in this case is more than the amount required by law to give jurisdiction thereof, it is, therefore, ordered, that a writ of error be allowed to the defendant, James Darcy, in this cause, in order that he may have the errors aforesaid corrected, and justice done in the premises, upon the said plaintiffs in error giving bond in the sum of three thousand five hundred dollars, with Henry Keane and M. Greiner as securities, conditioned according to law, and that the said writ of error be returnable in the Supreme Court, on the first Monday in December, 1848.

And on the same day the following bond for writ of error was filed:

Know all men by these presents, that we, James Darcy, as principal, and Henry Keane, of the city of New Orleans, merchant, and M. Greiner, of the city of Lafayette, attorney at law, as sureties, are held and firmly bound unto Morris Ketchum, Thomas Rogers, and Edward Bement, doing business under the style of Ketchum, Rogers and Bement, in the full sum of three thousand five hundred dollars, to be paid to the said Ketchum, Rogers and Bement, their certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated this 20th day of June, in the year of our Lord one thousand eight hundred and forty-eight.

Whereas lately, at a circuit court of the United States, ninth judicial circuit, holding sessions in and for the eastern district of Louisiana, at New Orleans, in a suit depending in said circuit court, wherein the above named Ketchum, Rogers, and Bement are plaintiffs, and the above bound James Darcy defendant, judgment was rendered against the said James Darcy, defendant, for the sum of fourteen hundred and eighteen dollars and eighty-one cents, with 7 per cent. interest thereon, from February 1st, 1840, till paid, and fifty-two dollars and twelve cents and costs of suit; and the said James Darcy having obtained a writ of error, and filed a copy thereof in the clerk's office of the said circuit court, to reverse the judgment in the aforesaid suit, and a citation directed to the said Ketchum, Rogers and Bement, citing and admonishing them to be and appear at a Supreme Court of the United States, to be holden at Washington, the first Monday of December next.

Now, the condition of the above obligation is such, that if the said James Darcy shall prosecute said writ to effect, and answer all damages and costs if he fail to make his plea good, then the above obligation to be void, else to remain in full force and virtue.

JAMES DARCY, [SEAL.]
M. GREINER, [SEAL.]
HENRY KEANE. [SEAL.]

Sealed and delivered in the presence of—
T. S. MARTIN, witness to Keane and Darcy.

UNITED STATES CIRCUIT COURT,
District of Louisiana.

Clerk's office.

I, Edmund Randolph, clerk of said court, do hereby certify, that the preceding fifteen pages contain a true and perfect transcript of the record, proceedings, and judgment of said court, in the case of Ketchum, Rogers and Bennett, plaintiffs, vs. James D'Arcey, defendant.

Given under my hand and the seal of said court, at New Orleans, this 2d day of September, A. D. 1848.

[L. S.]

EDM'D RANDOLPH. *Clerk*,
By JAS. M. DOWNS, *D. C.*

United States of America, circuit court of the United States, for the fifth circuit and district of Louisiana.

JAMES D'ARCEY, plaintiff in error,
vs.
KETCHUM, Rogers and Bennett, defendants in error.

I, Theodore H. McCaleb, United States judge for the district of Louisiana, do hereby certify, that Edmund Randolph, whose name is signed to the above certificate as clerk of the circuit court of the United States, for the district of Louisiana, was at the time of signing said certificate, and is now, the clerk of said court; that said certificate is in due form of law, and that full faith and credit are due to his official attestations as such clerk.

I further certify, that Jas. M. Downs, who signed said Edmund Randolph's name as clerk, was at the time of signing the same the duly appointed and qualified deputy clerk of the said Edmund Randolph.

Given under my hand and seal, at New Orleans, in the district of Louisiana, this 22d day of September, A. D. 1848.

THEO. H. McCALEB, [SEAL.]
U. S. judge.

UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the honorable the judges of the circuit court of the United States, in and for the 5th circuit, and holding sessions for the district of Louisiana, greeting:

Because in the record and proceedings, as also in the rendition of the judgment, of a plea which is in the said circuit court, before you, or some of you, between Ketchum, Rogers & Bennet, plaintiffs, and James D'Arcey, defendant, a manifest error hath happened, to the great damage of the said James D'Arcey, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then under

your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held; that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the laws and customs of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court of the United States, this 11th of October, in the year of our Lord one thousand eight hundred and forty-eight.

EDM'D RANDOLPH,
Clerk of the United States circuit court and district of Louisiana,
By JAS. M. DOWNS, *D. C.*

The United States of America, to Ketchum, Rogers and Bennet, or Locket & Gould, their attorneys of record, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the city of Washington, on the 1st Monday of December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fifth circuit and district of Louisiana, wherein James D'Arcey is plaintiff in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Roger B. Taney, chief justice of the Supreme Court of the United States, this 11th day of October, in the year of our Lord one thousand eight hundred and forty-eight.

THEO. H. McCALEB,
U. S. judge.

Marshal's return.

Received October 11th, 1848, and on the 16th day of October, 1848, served a copy of the within citation in error on E. L. Gould, esq., attorney of record, in person, in the city of New Orleans.

Returned, New Orleans, Oct. 20th, 1848.

J. PRADOS, Jun.,
Deputy U. S. marshal.